

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

KENNETH MELTON,

Plaintiff,

v.

MICROSOFT CORPORATION *et al.*,

Defendants.

CASE NO. C20-0152-JCC

MINUTE ORDER

The following Minute Order is made by direction of the Court, the Honorable John C. Coughenour, United States District Judge:

This matter comes before the Court *sua sponte*. On February 7, 2020, the Honorable Michelle L. Peterson, United States Magistrate Judge, granted Plaintiff's motion for leave to proceed *in forma pauperis*. (Dkt. No. 7.)

Once a complaint is filed *in forma pauperis*, the Court must dismiss it prior to service if it "fails to state a claim on which relief can be granted." 28 U.S.C. § 1915(e)(2)(b)(ii); *see Lopez v. Smith*, 203 F.3d 1122, 1129 (9th Cir. 2000). To avoid dismissal, a complaint must contain sufficient factual matter, accepted as true, to state a claim for relief that is plausible on its face. *Ashcroft v. Iqbal*, 556 U.S. 662, 664 (2009). The factual allegations must be "enough to raise a right to relief above the speculative level." *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555

1 (2007). The complaint may be dismissed if it lacks a cognizable legal theory or states insufficient
2 facts to support a cognizable legal theory. *Zixiang v. Kerry*, 710 F.3d 995, 999 (9th Cir. 2013).

3 Plaintiff's complaint purports to seek a "no contact order contain community online
4 torchor devices and softwear." (Dkt. No. 8 at 1.)¹ In support of his request, Plaintiff alleges that
5 "Sins 7-26-15 documents, images, data will show I'm [illegible] there torchoring device. I'm
6 stating look befor you call me crazy. [Illegible] softwear, [illegible], brain waves, frequency,
7 radio broadcasting electric [illegible] data, hard drive softwear + satalight otheration droin use.
8 By a crimal investigation." (*Id.* at 1–2.) Plaintiff proceeds to set forth an extensive list of
9 Defendants, including Google Inc., Firefox Mozilla, the FBI, and Walmart Headquarters. (*See id.*
10 at 2–13.) The conclusion of Plaintiff's complaint states that he is "requesting all softwear data.
11 All my e-mails data. Google Maps + locations Bluetooth links." (*Id.* at 14.) Plaintiff has attached
12 to his complaint a verification of insurance benefits and correspondence related to his child
13 support obligations, but does not explain the relevance of those documents. (*See* Dkt. No. 8-1 at
14 1–3.)

15 Plaintiff's complaint fails to state a claim upon which relief can be granted. As a
16 threshold matter, Plaintiff has not pleaded that this Court has subject matter jurisdiction over his
17 claims. *See* 28 U.S.C. §§ 1331, 1332; (*see generally* Dkt. No. 8). The complaint also does not
18 state what law entitles Plaintiff to relief or a cognizable legal theory under which he may
19 recover. *See Zixiang*, 710 F.3d at 999. And the complaint does not set forth factual matter that,
20 accepted as true, states a claim for relief that is plausible on its face. *See Iqbal*, 556 U.S. at 664.
21 Thus, Plaintiff's complaint fails to state a claim on which relief can be granted. *See* 28 U.S.C. §
22 1915(e)(2)(b)(ii); *Lopez*, 203 F.3d at 1129.²

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25 ¹ Quotes from Plaintiff's complaint are set forth verbatim.

26 ² Plaintiff has filed several subsequent motions that appear to allege the same nucleus of
operative facts as the complaint but seek different forms of relief. (*See* Dkt. Nos. 9, 10, 12.)
Those documents, if considered with the complaint for the purposes of this order, similarly fail to

1 Although the Court finds that the complaint fails to state a claim upon which relief can be
2 granted, the Court will not dismiss a case unless “it is absolutely clear that no amendment can
3 cure the [complaint’s] defect[s].” *Lucas v. Dep’t of Corr.*, 66 F.3d 245, 248 (9th Cir. 1995).
4 Accordingly, the Court ORDERS that Plaintiff file an amended complaint curing the defects
5 identified by the Court no later than 14 days from the date this order is issued. The Clerk is
6 DIRECTED to mail a copy of this order to Plaintiff.

7 DATED this 21st day of February 2020.

8 William M. McCool
9 Clerk of Court

10 s/Tomas Hernandez
11 Deputy Clerk
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26 assert a basis for the Court’s subject matter jurisdiction over Plaintiff’s claims or a claim upon
which relief may be granted. *See* 28 U.S.C. § 1915(e)(2)(b)(ii); *Lopez*, 203 F.3d at 1129.